

REMARKS

The acknowledgment by the Examiner of a claim for foreign priority under 35 U.S.C. §119 and receipt of the priority document is noted with appreciation.

This amendment corrects minor grammatical errors in the specification.

Claims 1 to 15 are active in the application and are presented with two new claims for reconsideration by the Examiner. Specifically, claims 14 and 15 have been added in order to highlight the features of the present invention. The support for the current amendment is presented in at least in Figure 2 and pages 3 to 5 of the specification. No new matter has been added by this amendment.

Claims 1 to 11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Toba, U. S. Patent 6,438,392. This rejection is respectfully traversed for the reason that Toba neither shows nor suggests the invention.

The patentable novelty of the present invention resides in the fact that a cellular phone has a function of repeatedly alerting a user that there is an incoming call until the user of said cellular phone cancels an in-absence incoming call message on display. The claimed invention allows to a user to get a notification of any call which comes up. The alert system is analogical to the “snooze” function in an alarm clock, wherein a user will be periodically notified with sound, vibration or light until he/she cancels this function. Particularly, referring to a flowchart in Figure 2 showing a specific operation of the claimed invention, when a user receives an incoming call (Step S1), the controller 12 determines whether or not the user of the phone has answered the call (Step S2). If the user has answered the call, then the controller 12 sets up communication on the phone (step S3). If the user hasn’t answered, then the controller 12 causes the display 14 to display an in-absence incoming call message and starts timer 16 to count a timer value stored in the memory 15. After the timer started, the controller 12 again determines whether or not the user has canceled the in-absence incoming message on the control panel 13 (Step S6), and if the step S6 is positive,

then the controller 12 resets the timer (Step S7) and deletes the in-absence incoming call message (Step S8). If the answer of the step S6 is negative and when the timer 16 counts up the timer value stored in the memory 15 (Step S9), the controller 12 causes the speaker driver to output an alert tone via the speaker 18 (Step S10), or vibration via a vibrator 28, or LED light 38 or a combination of all above (52, 48, 50). The alert tone, vibration or light again alert the user to the in-absence incoming call. The controller 12 again determines whether or not the user has canceled the in-absence incoming call message on the control panel 13 (Step S11). If the answer of the step S11 is YES, then the controller 12 causes the speaker driver 17 to stop driving the speaker 18, or to stop vibration on vibrator 28, or turn off LED light 38 or a combination of all above (52, 48, 50), resets the timer 16 (Step S14), and again starts the timer 16 for repeating the above procedure (Step S5). However, if the answer to the step S11 is NO, the system stops of alert activity in order to reset a timer and returns to the step S5 again. Therefore, the system will continue to alert the user until he/she will stop an alert tone and delete a in absence incoming call message on the control panel 13.

In contrast, the patent to Toba discloses an absence reception information device for informing the user of a folding portable cellular phone about occurrence of a call during the user's absence. Specifically, referring to Figures 3 and 4 in Toba, the operation of the claimed device starts with step S1, when the control circuit 12 judges whether or not a call signal has been received by the reception circuit 10. If a call signal has been received the control circuit 12 starts the call reception information process. The operation in the call reception information process has previously been determined and set by the user. Particularly, the user specifies which of the alerting devices will be used: the vibrator 15 or the sounder 16. In step S3, the control circuit 12 judges whether or not the setting for the call reception information process is "vibrator mode" or not. If setting is the vibrator mode ("YES" in the step S3), the control circuit 12 instructs the power supply control circuit 14 to activate the vibrator 15 and thereby the user is informed of the

reception of the call by the vibration of the vibrator 15 (Step S4) and proceeds to activation of vibrator according to step S5. If in the vibrator mode, the control circuit 12 instructs the power supply control circuit 14 to activate the sounder 16 and thereby the user is informed of the reception of the call by the sound of the sounder 16 and thereafter proceeds to step S5. Further, the control circuit 12 in the step S5 judges whether or not the user has responded to the call by operating or pushing one of the operation key 4. If the user responds to the call, the process proceeds to conversation status and after the conversation is over the system returns into starting mode to step S1. If the user did not respond to the call, the control circuit 12 in step S9 stores the reception data like a telephone number or ID of the calling party, and thereafter proceeds to step S10, wherein the control circuit 12 judges whether or not the open detection signal is supplied from the open/close detection circuit 5. If the opened detection signal is supplied from circuit 5 this means that the folding portable phone is not folded and the LCD 6 in the step S11 executes the absence reception information of display 6. In the next step S12, the control circuit 12 judges whether or not the user has requested to finish the absence reception information process by pushing a "CLEAR" button. If the user has requested to finish the absence reception information process, the absence reception information process using LCD 6 ends and the process returns to the step S1. In the case when the open detection signal is not supplied from the open/close detection circuit 5, that is, if the folding portable cellular phone is folded, the control circuit 12 executes the absence reception information process using the LED in step S13. If the phone is folded and the open detection signal is not supplied from the detection circuit 5 (see step S10) the control circuit 12 executes the absence reception information process using the LED 9 (step S13). Further, the control circuit 12 continues to monitor whether or not the open detection signal is supplied from the open /close detection circuit 5 and if the user opens the phone and an open detection signal is supplied, the process proceeds to the step S1 and the control circuit 12 thereafter executes the absence reception

information process using LCD 6. In contrast, if the user keeps the phone folded and an open detection signal is not supplied from the open/close detection circuit 5, the process proceeds to the next step 15, wherein the control circuit 12 judges whether or not the user has requested to finish the absence reception information process by pushing the "CLEAR" key. If the user has not requested to finish the absence reception information process, the process is returned to the step S14. If user requests to finish the absence reception information process, the absence reception information process using the LED 9 is ended, and the process is returned to the beginning or step S1.

Briefly, according to Toba after a user of a cell phone received a call, first, an attention of a user is attracted by sound or vibration and if the user does not respond, reception data is stored and the state of opening/closing further is recognized. If the phone is opened, an absence reception signal is displayed by the LCD. If the cell phone is in a folded state, the light 9 turns on and notifies a user about the outstanding call until he/she opens a phone or cancels it by "CLEAR" button. As it can be seen the invention of Toba provides a function of using the LED 9 light for showing to the user that there is an upcoming call even when the phone is folded.

As it can be seen from the previous detailed analyses, the reference to Toba is absolutely silent about a timer. However, in the Office Action the Examiner, paraphrasing claim language, states that the reference to Toba discloses an identical invention and particularly discloses a timer. (See page 2 of the Office Action) Making this statement, the Examiner does not refer to any particular paragraph in the specification or drawing. Applicant is respectfully disagrees and points out to the Examiner that the timer is not shown by the reference to Toba. Applicant respectfully calls the Examiner's attention to Figures 3 and 4 in Toba, wherein a block diagram of a device and a flow chart showing an operation of the device are presented. Please note, that there is no any indication of a timer in the both drawings as well as their description. However, a timer with

its function is a main feature of the present invention.

As it was discussed above, the present invention produces an alert tone or vibration or light or all together to attract a user's attention periodically in a time period specified by timer 16, 26, 36, or 46 until a user stops an alert tone or deletes the in-absence incoming message. The reference teaches that the only light on the body of the cell phone will be turned on if phone is in folded condition or message on the display will be presented if the phone is in opened position. Please note that reference to Toba does not show periodically activating of a sounder or vibrator until a user cancels an absence reception call message on display. Additionally, according to the present invention a message of an in-absence incoming call message is displayed all the time if a user does not answer the phone, where Toba teaches that a message will be displayed only when the phone is opened, otherwise only a LED light is on as an indicator of the in-absence incoming call.

Applicant respectfully points out that the claims 1 and 7 of the present invention has the limitation of the timer which has not shown by the reference to Toba. Particularly, claim 1 recites, "A cellular phone ..., said cellular phone comprising:

a timer for starting counting, at the same time as the in-absence incoming call message is displayed, a preselected period of time set therein beforehand; ..." (Emphasis added.)

Additionally, in order to further emphasize the distinction the two new dependent claims 14 and 15 were added for the Examiner's consideration. Specifically, claim 14 recites, "The cellular phone as claimed in claim 1, wherein reporting means for alerting repeatedly the user to the incoming call when said timer counts up the preselected period of time until the user of said cellular phone cancels said in-absence incoming call message on said display." (Emphasis added)

Similarly, new Claim 14 dependent from claim 7 has been added describing in the analogous manner the fact that an alerting procedure takes place

repeatedly until the user cancels in-absence incoming call message on display.

The Examiner is respectfully reminded that MPEP §131 mandates that “TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT IN THE CLAIM”. Furthermore, the MPEP, citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987), states “[t]he identical invention must be shown in as complete detail as is contained in the ...claim” (emphasis added).

Here, the structural limitation of the timer, highlighted in Applicant’s claims above is not taught by Toba. It is therefore respectfully submitted that the rejection of the claims are improper under 35 U.S.C. §102 as Toba cannot anticipate the rejected claims since it does not “teach the identical invention”. Further, since the above limitations are not taught or suggested, Toba cannot be used to support a prima facie obviousness rejection under 35 U.S.C. §103. Based on the above discussion with reference to the MPEP guidelines, it is respectfully requested that the rejections based on 35 U.S.C. §102 be withdrawn.

This being the only rejection to claims 1 to 11 it is respectfully requested that these claims be allowed.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1 to 15 be allowed, and that the application be passed to issue. The prior art to Shibuya cited but not relied on by the Examiner has been reviewed, but for the reason that the filing date of this reference is later than the filing date of the present invention this reference cannot be considered as a valid prior art.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any

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fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson, P.C.).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael E. Whitham", written in a cursive style.

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